

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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BOSTON AND MAINE	:	
CORPORATION,	:	
	:	
Plaintiff,	:	
	:	
-v.-	:	Civil Action No. 05-11656-RCL
	:	
MASSACHUSETTS BAY	:	
TRANSPORTATION AUTHORITY	:	
	:	
Defendant.	:	
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PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to the Orders of the Court dated November 17, 2005 and April 10, 2006, Rule 56 of the Federal Rules of Civil Procedure, and Local Rule 56.1, the Plaintiff, Boston and Maine Corporation ("B&M"), hereby moves for partial summary judgment in this action, namely that the Court grant B&M's Motion, enforce B&M's bankruptcy Consummation Order, and enjoin the Massachusetts Bay Transportation Authority ("MBTA") from assertion of its claim for reimbursement of cleanup costs at the Boston Engine Terminal ("BET") as to contamination occurring on or before June 30, 1983. In addition, the Court should grant B&M's Motion and adjudge that B&M's liability for claims arising from cleanup costs for contamination at the BET is contractually limited to an amount equal to or less than \$1 million. The Motion is based upon the annexed Declarations of Roger Bergeron, James Hennemann, and Robert Culliford,

Statement of Material Facts, Memorandum of Law, and the remainder of the record in this action.

REQUEST FOR ORAL ARGUMENT

The Plaintiff respectfully requests that the Court schedule oral argument on this motion on the soonest available date.

Respectfully submitted,

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Dated: June 2, 2006

CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 7.1

I hereby certify, pursuant to Rule 7.1 of the Local Rules of the United States District Court for the District of Massachusetts, that on May 25, 2006, my co-counsel, Susan A. MacIntyre, conferred with Alicia McDevitt, Counsel for the Massachusetts Bay Transportation Authority, in an attempt to resolve or narrow the issues addressed in this Motion for Partial Summary Judgment.

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on June 2, 2006.

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